



ODOT'S NEPA ASSIGNMENT PROGRAM

September 2015

What is NEPA Assignment?

- Official Name: Surface Transportation Project Delivery Program
- Formal Assignment of FHWA's NEPA responsibilities to a State who would assume:
 - All NEPA classes of action: CE's, EA's and EIS's
 - All environmental laws, rules and orders
 - Under this program, ODOT is deemed to be FHWA on all projects for environmental matters.

About the NEPA Assignment program

- ODOT assumes legal responsibility and liabilities to ensure compliance with all environmental requirements
 - ODOT agrees to be sued in Federal court
- ODOT's Assignment does not change any current legal requirements
 - ODOT is deemed to be a Federal Agency [FHWA]
- Savings is from reduced reviews - not shortcutting process or legal requirements.

Where has this been done before?

- CALTRANS since 2006...
 - Positive experience thus far
- Texas approved December 2014
- Utah, Alaska, Idaho, Florida are beginning the process
- Other States may be considering

Scope of the NEPA Assignment Program

- The MOU defines the range of project actions and environmental responsibilities the State assumes
- FHWA retains the following:
 - Engineering decisions
 - Project level air quality conformity determinations
 - Government to government Tribal consultation
 - USDOT responsibilities for statewide and metropolitan planning
 - Projects that cross state lines

How will this change the process?

- Resource Agencies may not see much change.
 - ODOT already handles the program on a day to day basis
- With this program, ODOT solely becomes responsible and legally liable for their decisions.
- Processes will be changed to reflect that ODOT has assumed FHWA's responsibilities.
- All requirements will be addressed, just as they are today.

How will this impact FHWA?

- FHWA retains oversight responsibilities, and will provide the following:
 - Training
 - Program Technical assistance and policy interpretation
 - But no project assistance
 - Audits of ODOT processing and decision making
 - Twice yearly for first 2 years, once a year after
 - Process and Program reviews
 - Reports back to Congress

Goals of NEPA Assignment

- Streamline the Environmental Process-while still meeting environmental protection standards.
 - Deliver program an overall 2,140 days quicker= 20% time savings
- Save costs to the Department
 - Assignment program will save ODOT \$45 million each year
- More efficient project delivery program

How will this impact ODOT?

- ODOT must comply with its MOU commitments in assuming FHWA's environmental responsibilities:
 - Limited waiver of sovereign immunity
 - Maintain detailed files, records and make them available to FHWA
 - Conduct regular self-assessments and continuous QA/QC on all actions
 - Maintain the professional and experienced staff to carry out the necessary scope
 - Report all NEPA decisions to FHWA

Where must ODOT be diligent?

- "If it's not documented in the Online CE System, it didn't happen!"
 - ODOT has to effectively document its actions.
 - Ensure actions are tracked and accounted for.
 - No more FHWA backstop "The feds are making us do it...."
- QA/QC is a must!
- Follow the PDP and its supporting guidance
- Ensure commitments are carried out in the field

The Path to NEPA Assignment

- Limited waiver of sovereign immunity
- Identify desired scope of Assignment
- Prepare Application, make available to the public
- Update existing MOU's, PA and processes
- Draft NEPA Assignment MOU, make available to the public
- Develop auditing tools
- Train and implement

The Application for NEPA Assignment

- Draft Application submitted to FHWA 12/15/14
- The Application identifies:
 - Scope of Assignment
 - Current & Proposed Organization
 - Current & Proposed Procedures, Tools
 - Roles and Responsibilities
 - Training
 - Resources
- Meet with agencies and associations- 12/2014 – 1/2015
 - Identify improvement areas/concerns
- Limited waiver of sovereign immunity- 3/2015
- Public Notice of Application- 4/2015
- MOU to FHWA- 6/2015

Next Steps

- MOU Public Notice- 10/2015
- Effective Date of program- 12/2015

Why we will succeed...

- Experienced environmental team
- Excellent training, manuals, processes already in place
- Renewed focus on QA/QC
- Commitment to make it succeed- savings of \$45 mil
- Commitment to continue to improve and adapt

What can you do to help?

- Need to understand and address any concerns you may have.
- Work with us to update any areas that are necessary.
- Prepare letters of support during the Application comment period.
- Help us continue to improve and ensure positive performance of this program!

ODOT NEPA Assignment Web Site: www.dot.state.oh.us/NEPA-Assignment